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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

SAMMY REYES,

Defendant and Appellant.

2d Crim. No. B169086
(Super. Ct. No. BA243295)
(Los Angeles County)

Appellant Sammy Reyes was sentenced to prison for the four-year middle term after a jury convicted him of assault on a peace officer with a deadly weapon. (Pen. Code, § 245, subd. (c).) He contends the judgment must be reversed because the trial court erroneously admitted evidence of three knives discovered during a search of his home, none of which were connected with the charged offense. We conclude that any error was harmless and affirm the judgment.

Facts

A neighbor called the police one night to report that he heard banging, yelling and screaming from inside appellant's home. Five uniformed deputies from the Los Angeles County Sheriff's Department responded to the call and spoke with the

neighbor, who told them appellant had a history of mental illness and owned several weapons.

The deputies gathered outside appellant's door and knocked. Appellant answered and stepped outside when asked to do so. Deputy Christopher Waladis identified himself and began asking appellant questions. Appellant said something about a "supreme being" and began to make karate-type motions. He punched Waladis in the chest, ran back inside his house, and turned off the lights.

Waladis used his flashlight to see inside the darkened house and noticed a knife lying on the floor. He saw appellant run to the back of the room and pick up a round metal object that appeared to be a gong or shield. Appellant ran toward the deputies at the front of the house, disregarding Waladis's order to stop. Another deputy shot appellant with a taser gun, which caused him to fall to the ground. Appellant disobeyed orders to roll onto his stomach and put his hands on his back and instead attempted to run toward the deputies again. The taser was activated a second time and appellant fell, bumping a desk and causing a sword that was leaning against the desk to fall to the ground. Appellant was ordered not to touch the sword, but he picked it up while he was still lying on the ground and removed it from its sheath. Waladis kicked appellant several times in an attempt to prevent him from getting up and using the sword. Appellant swung the sword at Waladis, and Waladis stepped back so it would not hit him. The taser was activated two more times before appellant stopped struggling and allowed the officers to handcuff and arrest him.

Appellant testified and claimed that he had been humming and playing the electric piano when the deputies came to the door and asked for the "supreme being." He did not know who they were, but he assumed a combative position when he walked outside because he had been having problems with his neighbor. He was also worried the officers might be gang members. Appellant denied hitting Deputy Waladis in the chest. He explained that he ran back into his house and grabbed the sword because he was afraid of the officers and wanted to defend himself. Appellant

had been prescribed psychotropic medication and had ingested five or six Klonopin pills on the day of his arrest. A psychiatrist who testified as an expert witness for the defense opined that appellant suffered from schizophrenia and had a "higher potential for misperceiving the intentions and actions of others."

Evidence of Knives Found in Appellant's Home

The deputies searched appellant's home following his arrest and discovered three knives that were not involved in the altercation. The prosecution was allowed to present these knives as evidence over a defense objection. Appellant contends the knives should have been excluded because they were irrelevant to any issue in the case.

Evidence is relevant if it has any tendency in reason to prove or disprove a disputed fact at issue. (Evid. Code, § 210; *People v. Mayfield* (1997) 14 Cal.4th 668, 749.) A defendant's possession of a weapon not used in the charged crime is irrelevant when the only logical inference to be drawn is that the defendant is the kind of person who surrounds himself with deadly weapons. (See, e.g., *People v. Riser* (1956) 47 Cal.2d 566, 577, overruled on other grounds in *People v. Chapman* (1959) 52 Cal.2d 95, 98; *People v. Archer* (2000) 82 Cal.App.4th 1380, 1392-1393; *People v. Henderson* (1976) 58 Cal.App.3d 349, 360.)

The People argue that in this case, the three knives were relevant and admissible on two issues other than appellant's proclivity to possess weapons. First, the discovery of the knives tended to bolster the credibility of appellant's neighbor, who had told the deputies on the scene that appellant owned several weapons and who testified to that fact at trial. Second, the presence of the knives in appellant's home tended to show the officers used reasonable force against him, which in turn rebutted appellant's self-defense claim.

We are not persuaded that the evidence was admissible for these purposes. It is true that the presence of the knives tended to corroborate the neighbor's testimony that appellant owned such weapons. But ultimately it did not matter

whether the neighbor was truthful or accurate in that regard; what mattered is that he *told* the deputies about the weapons and put them on notice that the person they were about to contact might be armed. The deputies' belief that appellant might be armed was highly relevant to the reasonableness of the force used, but their after-the-fact discovery of the three knives did not tend to make their actions in subduing appellant any more or less reasonable at the time.

Assuming it was an abuse of discretion to admit evidence of the three knives,¹ reversal is not required. The error, if any, was a violation of state evidentiary rules and will be deemed prejudicial only if it is reasonably probable the jury would have otherwise reached a result more favorable to appellant. (*People v. Alcala* (1992) 4 Cal.4th 742, 797.) There is no reasonable probability here.

The evidence was uncontradicted that appellant possessed a sword and another knife that the deputies saw on the floor when appellant ran back into his house. Appellant's possession of both of these weapons was relevant and admissible--the sword as the weapon used in the attack, and the knife as a weapon within appellant's reach which would have affected the deputies' right to use reasonable force. The information that appellant kept three additional knives elsewhere in his house was not likely to affect the outcome given that the jury already knew he possessed weapons of a similar nature. (See *People v. Thomas* (1992) 2 Cal.4th 489, 520-522 [no prejudice in admitting evidence of writings showing the defendant's interest in firearms in a murder case]; *People v. Riser, supra*, 47 Cal.2d at p. 577 [admission of weapon not used in homicide was harmless error]; *People v. Archer, supra*, 82 Cal.App.4th at p. 1394 [evidence of knives not used in the charged murder was itself harmless, although

¹ This assumption makes it unnecessary for us to separately consider whether the knives should have been excluded as more prejudicial than probative under Evidence Code section 352.

reversal was required due to cumulative errors that included a confrontation clause violation].)

The judgment is affirmed.

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COFFEE, J.

We concur:

GILBERT, P.J.

YEGAN, J.

Anita H. Dymant, Judge
Superior Court County of Los Angeles

Lora Fox Martin, under appointment by the Court of Appeal, for
Defendant and Appellant.

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